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THE GOA, DAMAN AND DIU (JUDICIAL COMMISSIONER'S COURT) REGULATION, 1963

No. 10 OF 1963

Promulgated by the President in the Fourteenth Year of the Republic of India.

A Regulation to provide for the constitution of a Judicial Commissioner's Court in Goa, Daman and Diu and for certain other matters.

In exercise of the powers conferred by article 240 of the Constitution, the President is pleased to promulgate the following Regulation made by him:—

PART I

PRELIMINARY

1. (1) This Regulation may be called the Goa, Daman and Diu (Judicial Commissioner's Court) Regulation, 1963.

Short title, extent and commencement.

(2) It extends to the whole of Goa, Daman and Diu.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Regulation, unless the context otherwise requires,— **Definitions.**

(a) "Administrator" means the administrator of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(b) "Goa, Daman and Diu" means the Union territory of Goa, Daman and Diu.

PART II

COURT OF THE JUDICIAL COMMISSIONER

**Establish-
ment of the
Court of the
Judicial Com-
missioner.** 3. On and from the commencement of this Regulation, there shall be established for Goa, Daman and Diu, a Court to be known as the Court of the Judicial Commissioner for Goa, Daman and Diu which shall consist of the Judicial Commissioner and such number of Additional Judicial Commissioners, if any, as may be determined by the Central Government from time to time.

**Appointment
of Judicial
Commissio-
ner and Addi-
tional J ud-
cial Com-
missioners.** 4. (1) The Judicial Commissioner and any Additional Judicial Commissioner shall be appointed by the President and shall hold office during the pleasure of the President.

(2) A person shall not be qualified for appointment as the Judicial Commissioner or an Additional Judicial Commissioner unless he is qualified for appointment as a Judge of a High Court under clause

(2) of article 217 of the Constitution or unless he is, or has been, or has the qualifications for appointment as, a Judge of the Tribunal de Relacao functioning in Goa, Daman and Diu immediately before the commencement of this Regulation.

**Casual va-
cancies in
the office of
the Judicial
Commissio-
ner** 5. On the occurrence of a vacancy in the office of the Judicial Commissioner, the Additional Judicial Commissioner, or where there are more Additional Judicial Commissioners than one, the senior-most among them shall, pending the appointment of the Judicial Commissioner, act as the Judicial Commissioner.

**Rank, prece-
dence and
responsibili-
ty of Judi-
cial Commis-
sioner.** 6. (1) The Judicial Commissioner shall have rank and precedence before any Additional Judicial Commissioner and shall be responsible for the administration of, and generally for the distribution of business of, the Court of the Judicial Commissioner.

(2) The rank and precedence of the Additional Judicial Commissioners shall be according to their date of appointment.

**Exercise of
Jurisdiction
by Judicial
Commissio-
ner and
Additional
Judicial
Commissio-
ners.** 7. (1) Subject to such rules as the Judicial Commissioner may make as regards the transaction of the business of the Court, when the Court of the Judicial Commissioner consists of the Judicial Commissioner and one or more Additional Judicial Commissioners, the jurisdiction of the Court of the Judicial Commissioner shall be exercised by a Bench consisting of the Judicial Commissioner and such Additional Judicial Commissioner or, as the case may be, such Additional Judicial Commissioners.

(2) Where there is a difference of opinion among the members of the Bench on any matter coming up before it for determination, the opinion of the majority shall prevail and the orders of the Court of the Judicial Commissioner shall be in terms of the views of the majority:

Provided that where there is no such majority which concurs in a judgment varying or reversing the decree, order or sentence

of the subordinate court, such decree, order or sentence shall be confirmed.

8. (1) The Court of the Judicial Commissioner shall be the highest civil and criminal court of appeal and revision in Goa, Daman and Diu and shall have all such jurisdiction as under the law in force immediately before the commencement of this Regulation was exercisable in respect of that territory by the Tribunal de Relacao.

Civil and
criminal
jurisdiction
of the court
of the Judicial
Commissioner.

(2) Without prejudice to the generality of the provisions of sub-section (1),—

(a) appeals from the judgments, decrees, orders and sentences of subordinate courts in Goa, Daman and Diu shall lie, subject to the provisions of any law for the time being in force, to the Court of the Judicial Commissioner;

(b) the Court of the Judicial Commissioner may call for the record of any case which has been decided by a subordinate court and in which no appeal lies to it, and—

(i) if such subordinate court appears to have exercised a jurisdiction not vested in it by law, or to have failed to exercise a jurisdiction so vested, or to have acted in the exercise of its jurisdiction with material irregularity, or

(ii) if on an application made to it the Court of the Judicial Commissioner is of opinion that there is an important question of law or custom involved and such question requires further consideration,

the Court of the Judicial Commissioner may make such order in the case as it thinks fit:

Provided that no application under sub-clause (ii) of this clause shall be admitted after the expiration of ninety days from the date of the order in respect of which the application is made unless the applicant satisfies the Court of the Judicial Commissioner that he had sufficient cause for not making the application within that period.

9. Subject to such conditions and limitations as may be prescribed by rules made by the Judicial Commissioner, any subordinate court may state a case and refer the same for the opinion of the Court of the Judicial Commissioner, and the Court of the Judicial Commissioner may make such order thereon as it thinks fit:

Reference
to the Court
of the Judicial
Commissioner.

Provided that where a subordinate court is satisfied that a case pending before it involves a question as to the validity of any law in force the determination of which is necessary for the disposal of the case and is of opinion that such law is invalid or inoperative, the subordinate court shall state a case stating its opinion and the reasons therefor and refer the same for the opinion of the Court of the Judicial Commissioner.

Registrar
and ministerial
officers.

10. (1) The Administrator may, after consultation with the Judicial Commissioner, appoint a Registrar and the Judicial Commissioner may, with the concurrence of the Administrator, appoint such other ministerial officers as may be necessary for the administration of justice by the Court of the Judicial Commissioner and subordinate courts and for the exercise and performance of the powers and duties conferred or imposed on such court or courts by this Regulation or any other law for the time being in force.

(2) The Judicial Commissioner may make rules for delegating to the Registrar such powers and such duties of a judicial, quasi-judicial or non-judicial nature as he deems fit. The ministerial officers shall exercise such powers and perform such duties of a quasi-judicial or non-judicial nature as the Judicial Commissioner may direct.

Superinten-
dence and
control of
subordinate
courts and
tribunals.

11. (1) The general superintendence and control over all courts and tribunals in Goa, Daman and Diu shall vest in, and all such courts and tribunals shall be subordinate to, the Court of the Judicial Commissioner.

(2) In exercise of the powers of superintendence and control vested in it, but without prejudice to the generality of such powers, the Court of the Judicial Commissioner may do any of the following things, that is to say—

(a) call for returns;

(b) direct the transfer of any suit or appeal from any subordinate court to any other court of equal or superior jurisdiction;

(c) make rules and issue general directions and prescribe forms for regulating the practice and procedure of subordinate courts;

(d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such court.

Registers,
books,
accounts and
statements
to be kept
by Court of
Judicial
Commissio-
ner.

12. (1) The Court of the Judicial Commissioner shall keep such registers, books and accounts as may be necessary for the transaction of the business of the Court and shall forward to the Administrator such of those registers, books and accounts and such statements of the work done in the Court as may, from time to time, be required by the Administrator.

(2) The Court of the Judicial Commissioner shall also comply with such requisitions as may be made by the Central Government or the Administrator for certified copies of, or extracts from, records of the Court of the Judicial Commissioner or any Court subordinate thereto.

13. All proceedings before the Court of the Judicial Commissioner shall, unless the Court otherwise directs in any particular case, be open to the public.

Proceedings before Court of Judicial Commissioner to be open to public.

14. (1) Until other provision is made by law in this behalf, the Court of the Judicial Commissioner may, subject to such rules as it may with the approval of the Administrator make, admit proper persons to be advocates in any court in Goa, Daman and Diu and may remove or suspend from practice on reasonable cause any person so admitted; and may authorise such advocates to plead or to act or to plead and act for parties in all proceedings before such court:

Admission and removal of advocates.

Provided that all persons entitled to practise before the courts or tribunals in Goa, Daman and Diu immediately before the commencement of this Regulation shall be entitled to be admitted as advocates.

(2) No person other than an advocate shall be allowed to plead or to act or to plead and act for parties except that any party may appear, plead or act on his own behalf or on behalf of a co-party.

15. The Court of the Judicial Commissioner shall be a Court of record and shall sit at Panjim or such other place or places, if any, as the Judicial Commissioner may, with the approval of the Administrator, from time to time, appoint.

Seal of the Court of the Judicial Commissioner.

PART III

SUBORDINATE COURTS

16. All courts including the Courts of Comarca and Juigado Existing functioning immediately before the commencement of this Regulation shall be courts subordinate to the Court of the Judicial Commissioner and shall, subject to the provisions of this Regulation, continue to exercise the same jurisdiction and powers as they were exercising immediately before such commencement.

Courts to continue.

17. (1) The Courts of Comarca shall be principal civil courts of original jurisdiction within the limits of the territory to which their jurisdiction extended immediately before the commencement of this Regulation and the Administrator may alter such limits in consultation with the Judicial Commissioner.

Courts of Comarca to be principal civil courts in of original jurisdiction.

(2) The Administrator may, in consultation with the Judicial Commissioner, make rules relating to the recruitment and conditions of service of persons to be appointed as judges of the subordinate courts.

PART IV

SUPPLEMENTAL PROVISIONS

Seal. 18. The Court of the Judicial Commissioner shall use a seal of such form and design as may be prescribed by the Administrator in consultation with the Judicial Commissioner.

Language of the courts. 19. The language of the Court of the Judicial Commissioner and the subordinate courts shall be the language which immediately before the commencement of this Regulation was the language of the Tribunal de Relacao or such subordinate courts, as the case may be, or English.

Power to make rules. 20. (1) The Court of the Judicial Commissioner may, from time to time, make rules, consistent with this Regulation, for carrying out the purposes of this Regulation and, in particular, for all or any of the following matters, namely:—

(a) the transaction of the business of the Court of the Judicial Commissioner and the procedure to be followed therein;

(b) the supervision of all courts subordinate to the Court of the Judicial Commissioner and their visitation and inspection;

(c) the translation of any papers filed in the Court of the Judicial Commissioner and the preparation of paper books for hearing appeals and the copying and typing or printing of any such papers or translation and the recovery from the persons at whose instance or on whose behalf papers are filed, of the expenses thereby incurred;

(d) the court-fees payable for instituting proceedings in the Court of the Judicial Commissioner and the fees to be charged for processes issued by that Court, or by any officer of that Court, and the amount payable in any proceeding in that Court in respect of fees of the advocate of any party to such proceeding;

(e) the approval, admission, enrolment, removal and suspension of advocates;

(f) any other matter which has to be prescribed.

(2) Until rules are made under sub-section (1), the rules, regulations and orders in force immediately before the commencement of this Regulation shall be applicable in so far as they are not inconsistent with the provisions of this Regulation.

Vacation. 21. (1) Subject to the approval of the Administrator, the Judicial Commissioner shall prepare a list of days to be observed in each

year as closed holidays in the Court of the Judicial Commissioner and the courts subordinate to that Court.

(2) The list shall be published in the Official Gazette.

(3) Any judicial act done by a court on a day specified in the list shall not be invalid by reason only of its having been done on that day.

22. (1) The Tribunal de Relacao functioning in Goa, Daman and Diu immediately before the commencement of this Regulation is hereby abolished.

(2) The Chief Justice and the Judges of the Tribunal de Relacao and all officers of that Tribunal shall be Judicial Commissioner, Additional Judicial Commissioners and officers of the Court of the Judicial Commissioner respectively until appointments are made in accordance with the provisions of this Regulation.

23. (1) The abolition of the Tribunal de Relacao under section 22 shall not prejudicially affect the continued operation of any notice served, injunction issued, direction made or proceedings taken before the commencement of this Regulation by that Tribunal under the powers then conferred upon it.

(2) Every appeal or other proceeding pending before the Tribunal de Relacao immediately before the commencement of this Regulation shall, on such commencement, stand transferred to the Court of the Judicial Commissioner, which shall proceed to try, hear and determine the matter as if it had been pending in that court.

(3) Every decree or order made or sentence passed by the Tribunal de Relacao shall be deemed for the purpose of execution to have been made or passed by the Court of the Judicial Commissioner.

24. References in any law in force in Goa, Daman and Diu to the Rule of construction. Tribunal de Relacao or High Court functioning therein immediately before the commencement of this Regulation shall be construed as references to the Court of the Judicial Commissioner.

25. The provisions of this Regulation including any rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law in force in Goa, Daman and Diu.

S. RADHAKRISHNAN,
President.

R. C. S. SARKAR,
Secy. to the Govt. of India.

